

August 19, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

STATE LEGISLATIVE UPDATE

State Budget Update

The Assembly met briefly on Thursday but took no action on the budget. They convened again on Monday, August 19, 2002, at 11:00 am, but are not scheduled to consider the budget. In an extension of the budget stalemate, Assembly Republicans have started to refuse to suspend the rules to take up Senate bills that have failed to meet committee deadlines.

On Wednesday, the California Supreme Court agreed to review an appellate court decision upholding a trial court ruling severely limiting the type of payments that the State can make without an approved budget, including a limit on wages paid to State employees to no more than the Federal minimum wage. If the Court had let the appellate decision stand, it would probably have resulted in a crisis and a speedy resolution of the budget impasse. Instead, the parties to the suit will have three months to file briefs before oral arguments are heard pushing the decision beyond the November election.

On August 8, 2002 we reported that the Department of Finance had sent a strong letter to State departments outlining the fiscal constraints they would have to conform to in preparing their 2003-04 budgets. In a subsequent letter, Finance provided more explicit directions to develop spending reduction plans equal to 20 percent of their 2002-03 expenditures.

Commission on State and Local Finance

Senate pro-Tem President John Burton recently proposed the establishment of a bipartisan commission on State and local finance to be appointed equally by himself and Senate Republican Leader Brulte to be broadly representative of the people of California. As outlined by Senator Burton, the commission would consider all aspects of State and local finance, including State revenues and tax expenditures, possible changes in the Prop 13 property tax system, business taxes, the property tax shift and realignment. Senator Burton expressed the hope that the commission would have recommendations in time for the 2004 legislative session, although any proposed constitutional amendments would have to wait until the 2004 election. When asked how this commission would be different from various other commissions that had considered similar issues in recent years, Senator Burton indicated that this commission's mandate to look at all State and local revenues was much broader and he hoped that its recommendations would be implementable.

Pursuit of County Position on Legislation

County-supported AB 2100 (Simitian and Canciamilla), which would provide a contingent, phased-in cap on the growth in property tax revenues shifted to Educational Revenue Augmentation Funds starting in 2005-06, was subsequently amended to make receipt of funding by a local government contingent on having a housing element approved by the Department of Housing and Community Development. While the County has an approved housing element and would not be affected by the amended bill, we have as a matter of policy opposed measures which limit the County's use of discretionary funds or which make access to funds contingent on a State-imposed requirement. At the same time, the bill would provide significant benefit to the County. **Therefore, our Sacramento advocates will continue to support AB 2100 but will seek to have the problematic language deleted.**

SB 1828 (Burton), as amended on August 8, 2002, would amend the California Environmental Quality Act (CEQA) by changing the Environmental Impact Review (EIR)/Negative Declaration (ND) processes and local permitting processes to subject a project with a potentially adverse impact on a Native American tribe's sacred site to additional conditions and approvals.

SB 1828 would require the lead agency responsible for approval of project within 20 miles of a sacred site to provide an affected tribe and the Native American Heritage Commission with the agency's initial study or other preliminary action. If the tribe then notifies the agency that the project may have an adverse impact on a sacred site, the agency must meet with the tribe and project sponsor to determine if the adverse impact can be avoided

or substantially lessened. If the sponsor of the project accepts the mitigation measures, the lead agency may approve the project. If there is no agreement, the agency's EIR or negative declaration must address whether the project has a significant impact on a sacred site and whether the mitigation measures would avoid or substantially lessen those impacts. If the affected tribe disagrees with the lead agency's findings, they can appeal to the Heritage Commission which, following a hearing, can overrule the agency's determination and require the EIR to be recirculated.

As a result of changes to the EIR process when a sacred site is involved, a lead agency could only issue a permit if the affected tribe accepts the proposed mitigation measures, or if the tribe failed to comment on them, or the Heritage Commission determines that they would avoid or substantially lessen impact to the site. A sacred site is defined as any geophysical or geographical area or feature that is sacred by virtue of its traditional cultural or religious significance or ceremonial use and is either listed on the inventory of sacred sites maintained by the Commission or is established by substantial evidence, which may be an oral history, submitted by the tribe.

According to the Regional Planning Department (RPD), SB 1828 would supplant the County's land use planning authority by giving the Heritage Commission the authority to overrule a local land use decision even when an Environmental Impact Review/Negative Declaration has been certified. While RPD indicates that it can comply with the consultation requirements of SB 1828, it opposes the authority given to the Commission.

According to the Department of Public Works, this bill would increase the cost of project design and mitigation measures, as well as delay the completion of affected projects. The Department believes it would be difficult, if not impossible, to challenge a sacred site's claim if it is based on oral history. DPW recommends that SB 1828 be amended to exclude any project on publicly owned land.

The Departments of Regional Planning and Public Works recommend that the County oppose SB 1828 unless amended as indicated above. This recommendation is consistent with Board policy to oppose any legislation that infringes upon county board of supervisors' local land use decision-making authority. **Therefore, our Sacramento advocates will oppose SB 1828 unless it is amended as noted above.**

There are thirty six supporters of SB 1828 including tribes, rancherias, reservations, Friends of the River, and the United Farm Workers of America. In opposition are the

Associated General Contractors of California, California Association of Realtors, California Building Industry Association, California Chamber of Commerce, Pacific Gas and Electric, Regional Council of Rural Counties, San Diego Board of Supervisors, Metropolitan Transit Authority, and thirty five others.

SB 1828 is in the Assembly Appropriations Committee where it is scheduled for a hearing on August 21, 2002.

Status of County-Interest Legislation

County-opposed AB 680 (Steinberg), which would have created a limited sales tax sharing plan for the Sacramento region, has been dropped by the author after he was unable to move the bill out of the Senate Local Government Committee.

County support in concept AB 1421 (Thomson), was placed on the Senate Appropriations Committee's Suspense File on August 19, 2002, because of increased State costs. That measure would create an assisted outpatient treatment program for mentally ill persons who meet certain criteria.

County-supported AB 2747 (Wesson), which would provide a wage-based tax credit for certain film, television and production companies which retains at least 50 percent of their production in California, was approved by the Senate Revenue and Tax Committee on August 8, 2002 and was referred to the Senate Appropriation Committee where it was placed on the suspense file.

County support and amend SB 248 (Romero) failed passage in the Assembly Health Committee on August 16, 2002. That measure, which was amended on August 15, 2002 to contain the provisions of SB 928 (Romero), on which the County had a position of support and amend to ensure equitable distribution of funds, would have charged a nickel per drink of beer or distilled spirits, and appropriated the funds for emergency medical services, including trauma centers.

County-opposed SB 1481 (Polanco), which specifies that inmate welfare funds "shall not be used to pay required county expenses of confining inmates in a local detention system, such as meal, clothing, housing, or medical services or expenses....", was signed into law by the Governor as Chapter 146. While the measure restricts the use of inmate welfare funds, it also states that these funds may be used to augment county expenses at the discretion of the sheriff.

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We will continue to keep you advised of any new developments.

DEJ:GK
MAL:JL:lm

c: Executive Officer, Board of Supervisors
 County Counsel
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 Legislative Strategist
 Local 660
 Coalition of County Unions
 California Contract Cities Association
 Independent Cities Association
 League of California Cities
 City Managers Associations
 Buddy Program Participants